

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM ALBERT MAECKER,

Plaintiff,

v.

ORDER
13-CV-305

EVERHOME MORTGAGE COMPANY,

Defendant.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. §636(b)(1)(B). Defendant filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 8) Plaintiff, who is proceeding *pro se*, then filed a cross-motion for summary judgment, a motion to expedite and a motion to amend the complaint. (Dkt. Nos. 13 and 16) On January 6, 2014, Magistrate Judge Scott issued a Report, Recommendation and Order recommending that defendant's motion to dismiss be treated as a motion for summary judgment and granted in favor of defendant. (Dkt. No. 19) Magistrate Judge Scott also recommended that plaintiff's cross-motion for summary judgment, motion to amend the complaint, and motion to expedite be denied. *Id.*

On January 22, 2014, plaintiff requested, and was granted, an extension of time to file objections to the Report, Recommendation and Order. (Dkt. Nos. 20

and 21) On February 20, 2014 plaintiff filed a “verified affidavit”. (Dkt. No. 23) The affidavit was wholly unresponsive to the findings of fact and law set forth in Magistrate Judge Scott’s Report, Recommendation and Order. On March 3, 2014, the Court, *sua sponte* and because plaintiff is proceeding *pro se*, granted plaintiff additional time to file responsive objections. (Dkt. No. 24) The Court noted that the objections should specify which portions of the Report and Recommendation plaintiff objects to and why. *Id.*

Plaintiff filed amended objections on March 24, 2014. While plaintiff does make some vague references to portions of Magistrate Judge Scott’s Report, Recommendation and Order, the vast majority of plaintiff’s submissions are non-responsive and contain wholly irrelevant information and arguments.¹ The Court has viewed the Report, Recommendation and Order, and plaintiff’s amended objections, and has determined that a response from defendant is not necessary. Thus, the Court deems the matter submitted.

Pursuant to 28 U.S.C. §636(b)(1), the Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. In light of plaintiff’s *pro se* status, the Court has treated the few vague references to Magistrate Judge Scott’s Report, Recommendation and Order as objections and has considered them in

¹ Twenty-six pages of plaintiff’s most recent objections appear to be verbatim excerpts from the book “Compromised: Clinton, Bush, and the CIA” by Terry Reed and John Cummings.

accordance with this standard. Upon *de novo* review, the Court adopts the proposed findings of the Report, Recommendation and Order in their entirety.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report, Recommendation and Order, defendant's motion to dismiss is treated as a motion for summary judgment and is granted in its entirety. Plaintiff's cross-motion for summary judgment, motion to expedite and motion to amend the complaint are denied.

The complaint is dismissed, and the Clerk of the Court is instructed to close the case.

SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: March 26, 2014